

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**KAREN MOFFIT and
LOWELL MOFFIT,**

Plaintiffs,

v.

HSBC MORTGAGE SERVICES, INC.,

Defendant.

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Civil Action No. **3:14-CV-0348-L**

ORDER

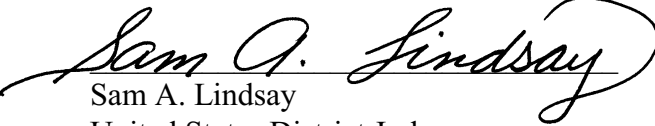
Before the court is Defendant's Motion to Dismiss (Doc. 5), filed February 4, 2014; and the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") entered by Magistrate Judge Renee Harris Toliver on August 26, 2014, recommending that the court grant Defendant's Motion to Dismiss. The magistrate judge recommends that the court dismiss with prejudice Plaintiffs' claims based on Defendant's alleged lack of authority to foreclose on the property at issue and violations of the Truth in Lending Act ("TILA"). The magistrate judge further recommends that the court dismiss without prejudice and allow Plaintiffs to replead their remaining claims based on alleged violations of the Texas Debt Collection Act ("TDCA"), breach of contract, torts, and suit to quiet title. No objections to the Report were filed as of the date of this order.

Having reviewed Defendant's motion, Plaintiffs' response, the pleadings, Report, and applicable law, the court determines that the findings and conclusions of the magistrate judge are correct and **accepts** them as those of the court. Accordingly the court **grants** Defendant's Motion to Dismiss (Doc. 5). Specifically, the court **dismisses with prejudice** Plaintiffs' claims based on

Defendant's alleged TILA violations and lack of authority to foreclose on the property at issue; and **dismisses without prejudice** Plaintiffs' claims for breach of contract, torts, suit to quiet title, and alleged TDCA violations. Plaintiffs, however, will be allowed to replead their claims for breach of contract, torts, suit to quiet title, and TDCA violations.

Accordingly, Plaintiffs **shall** file an amended complaint that cures the deficiencies noted in the Report by **September 24, 2014**. *Any amended complaint filed by Plaintiffs must not, without leave of court, include additional or new claims not previously pleaded. Failure to comply with this order will result in dismissal without prejudice of Plaintiffs' remaining claims pursuant to Federal Rule of Civil Procedure 41(b) or dismissal with prejudice of Plaintiffs' remaining claims pursuant to Federal Rule of Civil Procedure 12(b)(6).*

It is so ordered this 10th day of September, 2014.


Sam A. Lindsay
United States District Judge